

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

RAMON ARMAS BORROTO JR.

Plaintiff,

vs.

Case No. 5:04CV165-RH/WCS

**MCDONALD, PATE, SPATE
and MCKENZIE**

Defendants.

DEFENDANTS' RESPONSE TO MARCH 1, 2005 ORDER

Defendants, by and through undersigned counsel, respond to this Court's March 1, 2005

Order and state:

STATEMENT OF FACTS

1. Defendants filed a Motion to Dismiss Plaintiff's civil rights complaint for failure to exhaust administrative remedies. (Doc. 24) Plaintiff filed his response, claiming that he filed a grievance identified as log number 02-12025, which satisfied the exhaustion prerequisite. (Doc. 29) On March 1, 2005, this Court ordered Defendants to produce that grievance to the Court. (Doc. 32) The grievance is attached as Exhibit A.

2. The attached grievance demonstrates that Plaintiff has not exhausted his administrative remedies. As set forth in Defendants' Motion to Dismiss, the subject of the grievance was Plaintiff's disciplinary status and not any alleged assault or misconduct by staff. Also, the grievance was returned without action for Plaintiff's failure to comply with proper grievance procedures.

Respectfully submitted,

CHARLIE CRIST
Attorney General

/s/ Caryl Kilinski
CARYL KILINSKI
Assistant Attorney General
Florida Bar No. 0480649

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished by U.S. Mail to Ramon Armas Borroto X27467 at Florida State Prison, 7819 N.W. 228th Street, Raiford, Florida 32026-1230 on this 8th day of March, 2005.

/s/ Caryl Kilinski
CARYL KILINSKI
Assistant Attorney General